

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ANDREW ROSS and SUSAN GERARD,

Plaintiffs,

vs.

No. 1:16-cv-01121 PJK/SMV

HECTOR BALDERAS, JR., ROBERT
GARCIA, SARAH MICHAEL
SINGLETON, FRANCIS J. MATHEW,
RAYMOND Z. ORTIZ, DAVID K.
THOMPSON, JENNIFER ATTREP, T.
GLENN ELLINGTON, SYLVIA
LAMAR, DONITA OLYMPIA SENA,
DONNA BEVACQUA-YOUNG, PAT
CASADOS, FRANK SEDILLO,
WILLIAM PACHECO, ANTONIO
GUTIERREZ, ANNA MONTOYA,
JUDAH BEN MONTANO, A. ARROYO,
E. MONTIJO, MICHELLE PORTILLO,
STEPHEN T. PACHECO, JANE
GAGNE, JOYCE BUSTOS, LYNN
PICKARD, PAMELA REYNOLDS,
ROBIN MARTINEZ, ROBERT
RICHARDS, BRENDA WALL,
AUDREY MONTOYA, and ALLSTATE
INSURANCE, INC.,

Defendants.

ORDER DENYING MOTIONS FOR DEFAULT JUDGMENT

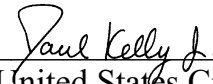
THIS MATTER comes on for consideration of Plaintiffs' Motions for Default Judgment filed November 10, 2016, urging the court to issue default judgments in the

amounts of \$10 million each against the following defendants: A. Arroyo, E. Montijo, Judah Ben Montano, Antonio Gutierrez, Anna Montoya, Robert Garcia, and William Pacheco. Docs. 34–40. The motions also request hearings on damages. Fed. R. Civ. P. 55(b)(2). The motions recite that each defendant was served on October 18, 2016, and should have responded not later than November 8. The court notes that defendants Gutierrez, Montoya, Garcia, and Pacheco have now answered, Doc. 49 (November 15), as have defendants Arroyo, Montijo, and Montano, Doc. 50 (November 16).

The court notes that Plaintiffs did not request entry of default by the Clerk. Fed. R. Civ. P. 55(a). In addition, there is a strong preference for cases to be determined on the merits, Plaintiffs identified no prejudice, and the various defendants promptly answered. The court will exercise its discretion and deny the motions. Because the just outcome in the disposition of these motions is apparent, replies are unnecessary.

NOW, THEREFORE, IT IS ORDERED THAT Plaintiffs' Motions for Default Judgment against defendants A. Arroyo, E. Montijo, Judah Ben Montano, Antonio Gutierrez, Anna Montoya, Robert Garcia, and William Pacheco are denied. Docs. 34–40.

DATED this 29th day of November 2016, at Santa Fe, New Mexico.


United States Circuit Judge
Sitting by Designation

Counsel:
Arash Kashanian, Albuquerque, New Mexico, for Plaintiffs.

Michael Dickman, Santa Fe, New Mexico, for defendants Robert Garcia, William Pacheco, Antonio Gutierrez, and Anna Montoya.

Luis Robles and Jordon George, Robles, Rael & Anaya, Albuquerque, New Mexico for defendants Judah Ben Montano, A. Arroyo, and E. Montijo.